



FEDERAL MARITIME COMMISSION

[DOCKET NO. 12-01]

**OC INTERNATIONAL FREIGHT, INC.,
OMJ INTERNATIONAL FREIGHT, INC.
AND OMAR COLLADO**

ORDER FOR HEARING ON APPEAL OF DENIAL OF LICENSE AND ORDER OF INVESTIGATION AND HEARING POSSIBLE VIOLATIONS OF SECTIONS 10 (a)(1) AND 19 OF THE SHIPPING ACT OF 1984

I. Appeal of FMC Staff Determination to Deny OTI License

OC International Freight, Inc. (OC) submitted an application on December 2, 2010, for a license as an Ocean Transportation Intermediary (OTI) to operate as a Non-Vessel-Operating Common Carrier (NVOCC) and as an Ocean Freight Forwarder (FF). OC was incorporated on February 27, 2007 in the State of Florida, and OC is currently located at 4458 NW 74th Avenue, Miami, FL, 33166. Omar Collado is identified in the application as OC's Qualifying Individual, as well as its President, Secretary and sole owner.

On November 17, 2011, the Bureau of Certification and Licensing (BCL) issued a Notice of Intent to Deny OC's license application in accordance with 46 C.F.R. § 515.15. As reflected in BCL's Notice of Intent, that action stemmed from the results of an investigation by the Commission's Miami Area Representative (AR) revealing that the applicant, the applicant's Qualifying Individual and a predecessor corporation, OMJ

International Freight, Inc.,¹ may have violated sections 10(a)(1) and 19 of the Shipping Act, 46 U.S.C. §§ 41102(a), 40901-40902. BCL's letter advised that, under 46 C.F.R. § 515.15, denial of an OTI license is appropriate when the Commission cannot rely upon the character or integrity of the applicant, or its principals, to the extent necessary to ensure future conduct within the requirements of the Shipping Act and the Commission's regulations. Based on the AR's investigation, BCL concluded that OC, and its qualifying individual, Mr. Collado, lacked the requisite character to be licensed as an OTI. OC timely requested a hearing on the denial of its license application under 46 C.F.R. § 515.15(c).

II. Investigation of Possible Violations of the Shipping Act

Central to the applicant's request for hearing here, Mr. Collado challenges whether he, OMJ and/or OC should be found to have violated the Shipping Act and the Commission's regulations. Specifically, the AR's investigation asserted that between October 2007 and October 2009, Mr. Collado and OMJ allowed its foreign-based unbonded OTI counterpart, Island Cargo Services, to utilize OMJ's service contracts in numerous instances. Although identified as the NVO on the underlying service contract with Seaboard Marine, the AR found that Mr. Collado did not issue an OMJ house bill of lading and never billed the cargo owner for ocean freight. Rather, Mr. Collado permitted Island Cargo Services to issue the latter company's house bill. Acting either as OMJ or

¹ OMJ International Freight, Inc. (OMJ) was incorporated on March 15, 1999, and was licensed as a freight forwarder and NVOCC on September 13, 2006. Omar Collado serves as the president, Qualifying Individual and sole owner of OMJ. OMJ's license was automatically revoked on January 15, 2010 following termination of its OTI bond by the surety company. See 46 C.F.R. § 515.26.

OC,² Mr. Collado allegedly provided only freight forwarding, warehousing, trucking and loading services for each of these shipments. On the basis of those facts, the Commission's Miami AR concluded that Mr. Collado, OMJ and OC knowingly and willfully violated section 10(a)(1) of the Shipping Act by allowing other persons to obtain ocean transportation for property at less than the applicable rates and charges through the device of permitting such persons to unlawfully access OMJ's service contracts.

For the period following revocation of OMJ's license for failure to maintain a bond on January 15, 2010, the Miami AR asserted also that Mr. Collado, OMJ and OC continued to provide ocean freight forwarder services at a time when they no longer possessed a valid OTI license or bond. The Miami AR concluded that Mr. Collado, OMJ and OC violated section 19 by acting as an unlicensed and unbonded OTI on more than 100 occasions beginning on or after January 16, 2010 and continuing through at least October 26, 2010. At the conclusion of the AR's investigation, Mr. Collado requested settlement negotiations with the Commission's Bureau of Enforcement (BOE). However, negotiations with BOE terminated unsuccessfully.

Section 19 of the Shipping Act of 1984, 46 U.S.C. § 40901, provides that the Commission shall issue an OTI license only to persons that it determines to be qualified by experience and character. The Commission's regulations at 46 C.F.R. § 515.15 implement the standards for licensing under section 19, and state that:

If the Commission determines, as a result of its investigation, that the applicant: (a) Does not possess the necessary experience or character to

² During this same period, OMJ was dissolved as a Florida corporation, at which time Collado appears to have begun conducting business, in part, under the OC name, using OC letterhead. Neither the dissolution of OMJ (a licensed entity) nor the apparent license transfer from OMJ to OC was reported to BCL. 46 C.F.R. § 515.18.

render intermediary services; (b) Has failed to respond to any lawful inquiry of the Commission; or (c) Has made any materially false or misleading statement to the Commission; then a letter of intent to deny the application shall be sent to the applicant....

The Commission's regulations thus require denial of an application for an OTI license if the applicant does not possess the necessary character to render OTI services. Based on a finding that the applicant did not possess the necessary character, BCL issued its determination on November 17, 2011 advising Mr. Collado of the intention to deny OC's application.

Pursuant to Mr. Collado's request for hearing, the Commission must determine whether BCL's determination to deny the OTI license application should now be upheld. That decision is factually related to the alleged violations by Mr. Collado, OMJ and OC. Given the common set of facts relating to Mr. Collado's, OMJ's and OC's past (and current) OTI operations, findings upon which the Commission may both analyze BCL's denial of the OTI application and BOE's allegations of Shipping Act violations, a combined proceeding would provide an efficient process.

NOW THEREFORE, IT IS ORDERED That, pursuant to sections 11 and 19 of the Shipping Act of 1984, 46 U.S.C. §§ 40901, 40902, 41302 and 41304, an adjudicatory proceeding is hereby instituted to determine:

- (1) whether to affirm BCL's November 17, 2011 denial of the OTI application of OC International Freight, Inc. and Omar Collado;
- (2) whether OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado violated Section 10(a)(1) of the Shipping Act, 46 U.S.C. § 41102(a), by knowingly and willfully allowing other persons to obtain ocean

- transportation for property at less than the rates and charges that would otherwise be applicable through the device of permitting such persons to unlawfully access OMJ's service contracts;
- (3) whether OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado violated section 19 (a) and (b) of the Shipping Act, 46 U.S.C. §§ 40901 and 40902, by acting as an ocean transportation intermediary without a license or evidence of financial responsibility;
- (4) whether, in the event violations of sections 10 or 19 of the Shipping Act are found, civil penalties should be assessed against OC International Freight, Inc., OMJ International Freight, Inc. and/or Omar Collado, and, if so, the amount of penalties to be assessed; and
- (5) whether, in the event violations are found, appropriate cease and desist orders should be issued.

IT IS FURTHER ORDERED, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. §.502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents

or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

IT IS FURTHER ORDERED That, OC International Freight, Inc., OMJ International Freight, Inc. and Omar Collado be made Respondents in this proceeding;

IT IS FURTHER ORDERED That the Commission's Bureau of Enforcement be made a party to this proceeding;

IT IS FURTHER ORDERED, That notice of this Order be published in the Federal Register, and a copy be served on parties of record;

IT IS FURTHER ORDERED, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.72;

IT IS FURTHER ORDERED, That all further notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on all parties of record;

IT IS FURTHER ORDERED, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 2 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.2, and shall be served on all parties of record; and

IT IS FURTHER ORDERED, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by April 2, 2013, and the final decision of the Commission shall be issued by July 31, 2013.

By the Commission.

Karen V. Gregory
Secretary

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